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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|------------------|
| 09/975,433 | 10/11/2001 | Robert Brainard | 38667.0100 | 9096 |
| 7590 | 12/23/2004 | | EXAMINER | |
| Damon L. Boyd Snell & Wilmer L.L.P. One Arizona Center 400 East Van Buren Phoenix, AZ 85004-2202 | | | JEAN GILLES, JUDE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2143 | |
| | | | DATE MAILED: 12/23/2004 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------|-----------------|
| Office Action Summary | Application N . | Applicant(s) |
| | 09/975,433 | BRAINARD ET AL. |
| | Examiner | Art Unit |
| | Jude J Jean-Gilles | 2143 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 October 2001.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-19 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

This office action is responsive to communication filed on 10/11/2001. Claimed priority is granted from provisional application No. 60/253316 with an effective filing date of 11/27/2000.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-17, and 19 are rejected under 35 U.S.C. 102(e) as being unpatentable by Srinivasan et al (U.S. Patent No. 6,357,042 B2).

Regarding claim 1: Srinivasan et al teach a data mark and recall system, comprising:

a data stream (*fig. 1, item 16; column 6, lines 1-7; column 5, lines 66-67*);
a marking system, wherein said marking system notes a particular point in said data stream corresponding to enhanced data content (*column 18, lines 6-11*);

a recall system, wherein said recall system allows a user to retrieve said enhanced data content (*column 31, lines 30-47*); and
an enhanced content data display (*column 32, lines 32-40*).

Regarding claim 2: Srinivasan et al teach a data mark and recall system in accordance with claim 1, further comprising a storage medium, wherein said marking system creates a stored marker on said storage medium corresponding to said particular point for later recall (*fig. 8, item 63; fig. 10, item 91; column 18, lines 1-7*).

Regarding claim 3: Srinivasan et al teach a data mark and recall system in accordance with claim 2, further comprising a review system, which allows said user to review said stored marker (*column 24, lines 62-67*).

Regarding claim 4: Srinivasan et al teach a data mark and recall system in accordance with claim 3, wherein said review system is at least one of a television, a computer, a PDA and a cell phone (*fig. 14, items 185, and 187-188; column 6, lines 25-26; column 24, lines 50-55*).

Regarding claim 5: Srinivasan et al teach a data mark and recall system in accordance with claim 1, wherein said data stream is a video stream (*fig. 1, items 11, and 16; column 5, lines 66-67; column 6, lines 1-3*).

Regarding claim 6: Srinivasan et al teach a data mark and recall system in accordance with claim 5, wherein said enhanced content comprises a static clip of a video scene corresponding to said particular point in said video stream (*fig. 14, items 187-188; column 24, lines 55-61; column 27, lines 1-3*).

Regarding claim 7: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said storage medium is located remotely from said user (*fig. 7, items 48a-n; column 13, lines 4-14, and 54-56*).

Regarding claim 8: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said storage medium is located locally to said user (*fig. 1, items 11, 13, and 14; column 6, lines 1-7*).

Regarding claim 9: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said enhanced content is stored on a remote enhanced content database (*fig. 7, item 51; column 13, lines 21-33*).

Regarding claim 10: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said enhanced content is stored on a local enhanced content database (*fig. 7, item 13; column 6, lines 4-7*).

Regarding claim 11: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said stored marker is data related to a point in time (*column 18, lines 8-11; it is important to note that synchronizing the marking means using a point in time that relates to the data*).

Regarding claim 12: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said stored marker is data related to a predetermined period of time (*column 17, lines 6-12; it is important to note that using a specific time interval is a predetermined period of time*).

Regarding claim 13: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said stored marker is data related to a temporally closest enhanced content point (*fig. 10, items 93, 95, 97, and 99*;

column 18, lines 22-35; it is important to note the role of the number/time marker generator in counting and associating individual frames in a serial fashion.)

Regarding claim 14: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said stored marker is data related to a point in time and a source (fig. 18, items 53, and 63; column 17, lines 45-51).

Regarding claim 15: Srinivasan et al teach a data mark and recall system in accordance with claim 14, wherein said stored marker is data further comprising a user identifier (*column 32, lines 12-21; column 23, lines 1-5*).

Regarding claim 16: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said stored marker is data related to a geographic location of said user.

Regarding claim 17: Srinivasan et al teach a data mark and recall system in accordance with claim 2, wherein said stored marker is data related to a point in time (*fig. 18, items 53, and 63; column 17, lines 45-51*), a channel (*column 33, lines 59-67*) and a geographic location of said user (*column 20, lines 43-53*).

Regarding claim 19: Srinivasan et al teach a data mark and recall system in accordance with claim 1, wherein said enhanced content is retrieved synchronously with marking (*column 30, 53-62*).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al (U.S. Patent No. 6,357,042 B2) in view of Allran et al (U.S. 5,625,845).

Regarding claim 18: Srinivasan et al disclose the invention substantially as claimed. Srinivasan et al teach a data mark and recall system in accordance with claim 1. However Srinivasan et al fail to teach a data mark and recall of claim 1, wherein said enhanced content is retrieved asynchronously from said marking.

In the same field of endeavor, Allran et al disclose “receiving asynchronous streamed data from, using an asynchronous receiver transmitter...” [see Allran; column 17, lines 61-64].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Allran et al's teachings of receiving asynchronous streamed data with the teachings of Bastian et al, for the purpose of improving the ability of a network to handle “latency factors which are unpredictable regarding buffering streams during transmission” as stated by Srinivasan et al in lines 59-61 of column 21.

Conclusion

5. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3719. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Jude Jean-Gilles

Patent Examiner

Art Unit 2143

JJG

December 05, 2004

William C. Vaughn Jr.
Primary Examiner
Art Unit 2143
William C. Vaughn Jr.

JG.